

DECISION

THE COMPTROLLER GENERAL  
OF THE UNITED STATES

FILE: B-207818

DATE: July 1, 1982

MATTER OF: Phoenix Power Systems, Inc.

## DIGEST:

Protest against adequacy of specifications is dismissed as untimely since it was filed after the receipt of initial proposals.

Phoenix Power Systems, Inc. protests the specifications in solicitation No. N00189-82-R-0178, issued by the Naval Supply Center for shipyard load banks.

Our Bid Protest Procedures, 4 C.F.R. § 21.2(b)(1), (1982), require that a protest against alleged improprieties in a solicitation that are apparent prior to the closing date for the receipt of initial proposals be filed before that date. Security Assistance Forces & Equipment Export Corporation, B-204936, March 4, 1982, 82-1 CPD 195. Phoenix did not protest before the closing date for receipt of proposals, March 18, 1982.

We note that the record shows that the agency inadvertently left Phoenix off the bidders mailing list. Nonetheless, notice of the solicitation was published in the Commerce Business Daily (CBD) over two weeks before the closing date for receipt of initial proposals, and the record shows that the protester was aware of that notice. We have held that publication of a procurement in the CBD constitutes constructive notice of the solicitation and thus its contents. CMI Corporation, B-206349, March 8, 1982, 82-1 CPD 212. Therefore, Phoenix's failure to receive the solicitation does not excuse the late protest.

The protest therefore is dismissed as untimely.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel